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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**LETTERS PATENT APPEAL NO. 7 OF 2017
IN
WRIT PETITION NO. 4733 OF 2000
WITH
CIVIL APPLICATION NO. 18 OF 2017**

The Principal Chief Conservator of Forest
& Director General Social Forestry & Anr. .. Appellants
Vs.
Shri Ramkisan Govind Bendre .. Respondent

**WITH
LETTERS PATENT APPEAL NO. 8 OF 2017
IN
WRIT PETITION NO. 5026 OF 1999
WITH
CIVIL APPLICATION NO. 19 OF 2017**

The Principal Chief Conservator of Forest
& Director General Social Forestry & Anr. .. Appellants
Vs.
Shri Namdeo Tatyaba Kopnar .. Respondent

**WITH
LETTERS PATENT APPEAL NO. 10 OF 2017
IN
WRIT PETITION NO. 5205 OF 2000
WITH
CIVIL APPLICATION NO. 21 OF 2017**

The Principal Chief Conservator of Forest
& Director General Social Forestry & Anr. .. Appellants
Vs.
Shri Arun Dhondiba Chavan .. Respondent

**WITH
LETTERS PATENT APPEAL NO. 11 OF 2017
IN
WRIT PETITION NO. 5209 OF 2000
WITH
CIVIL APPLICATION NO. 22 OF 2017**

The Principal Chief Conservator of Forest
& Director General Social Forestry & Anr. .. Appellants
Vs.
Shri Aappa Pandurang Marade .. Respondent

**WITH
LETTERS PATENT APPEAL NO. 13 OF 2017
IN
WRIT PETITION NO. 5203 OF 2000
WITH
CIVIL APPLICATION NO. 24 OF 2017**

The Principal Chief Conservator of Forest
& Director General Social Forestry & Anr. .. Appellants
Vs.
Shri Jalindar Mukundrao Bandgar .. Respondent

**WITH
LETTERS PATENT APPEAL NO. 15 OF 2017
IN
WRIT PETITION NO. 5207 OF 2000
WITH
CIVIL APPLICATION NO. 26 OF 2017**

The Principal Chief Conservator of Forest
& Director General Social Forestry & Anr. .. Appellants
Vs.
Shri Narayan Dagadu Chitare .. Respondent

**WITH
LETTERS PATENT APPEAL NO. 16 OF 2017
IN
WRIT PETITION NO. 5219 OF 2000
WITH
CIVIL APPLICATION NO. 27 OF 2017**

The Principal Chief Conservator of Forest
& Director General Social Forestry & Anr. .. Appellants
Vs.
Shri Vitthal Rambhau Deshmukh .. Respondent

**WITH
LETTERS PATENT APPEAL NO. 18 OF 2017
IN
WRIT PETITION NO. 4737 OF 2000**

**WITH
CIVIL APPLICATION NO. 30 OF 2017**

The Principal Chief Conservator of Forest
& Director General Social Forestry & Anr. .. Appellants
Vs.
Shri Raju Dhulaji Bawale .. Respondent

**WITH
LETTERS PATENT APPEAL (STAMP) NO. 28113 OF 2012
IN
WRIT PETITION NO. 5032 OF 1999**

The Principal Chief Conservator of Forest
& Director General Social Forestry & Anr. .. Applicants
Vs.
Shri Sambhaji Aabasaheb Shitole .. Respondent

Mr. Prashant P. More, Assistant Govt. Pleader for the Appellant-State.
None for the Respondent.

**CORAM : SMT. VASANTI. A. NAIK AND
MR. SARANG V. KOTWAL, JJ.
DATE : 18th DECEMBER, 2017.**

P. C. :

Since the issues involved in these Letters Patent Appeals are identical and the common orders of the learned Single Judge dated 15.12.2010 and 08.06.2010 in a bunch of writ petitions filed by the State Government are appealed against in these Letters Patent Appeals, the appeals are heard together and are decided by this common order.

Few facts giving rise to the appeals are stated thus.

The respondents had filed separate complaints before the Industrial Court for a declaration that the State of Maharashtra and the other respondents had indulged in unfair labour practices by not granting the status of permanency to the respondents. The complaint was filed by the respondents under the provisions of the Maharashtra Recognition of Trade Union and Prevention of Unfair Practices Act. Each of the respondents

had claimed that they were working for several years on daily wages and though they were entitled to permanency benefits, the said benefits were not awarded to them. The complainants had pleaded that the State and the other respondents gave artificial breaks to the services of the respondents and had committed unfair labour practices under item nos.6, 9 and 10 of Schedule IV of the MRTU and PULP Act. The respondents-complainants had sought a declaration that they had completed 240 days of services during each year of the service and they were entitled to the privileges and benefits available to the permanent employees.

The petitioners filed the reply-written statement to the complaints and disputed that the complainants had worked for 240 days in each calendar year. According to the State of Maharashtra and others, it was necessary for the complainants to have put in more than 240 days of service for five years to seek the benefits under the Government Resolution dated 01.11.1994, which was not there. It was stated in the reply filed by the State and the other respondents that since the complainants had not completed 240 days of service in five calendar years, they were not entitled to the benefits of permanency and their complaints were liable to be dismissed.

On the aforesaid pleadings of the parties, the issues were framed by the Industrial Court and after considering the evidence tendered by the parties, the Industrial Court recorded a finding of fact in every complaint that the complainants had completed more than 240 days of service in more than five calendar years and they were entitled to the benefits of permanency. The judgments of the Industrial Court were challenged by the State Government and the other respondents by filing separate writ petitions. The writ petitions filed by the complainants/respondents were decided by the learned Single Judge by the common orders dated 08.06.2010 and 15.12.2010.

It is submitted on behalf of the appellants by the learned Assistant

Government Pleader that the learned Single Judge was not justified in dismissing the writ petitions filed by the State of Maharashtra. It is submitted that the learned Single Judge has failed to consider that the Government Resolution dated 01.11.1994 would have come to the rescue of only those employees who had completed more than 240 days of service in five calendar years before 01.11.1994. It is submitted that the complainants had not made a prayer for a direction to the State Government and the other respondents to grant the permanency benefits to them. It is stated that it was disputed that the complainants had completed more than 240 days of service during any calendar year and the finding of fact that the complainants had worked for more than 240 days during each of the seven calendar years during which they claim to have worked with the State Government, is incorrect. It is submitted that the learned Single Judge erroneously relied on the judgment of the Hon'ble Supreme Court in the case of **MSRTC & Anr. Vs. Casteribe Rajya Parivahan Karmchari Sanghatana** reported in **(2009) 8 SCC 556**. It is submitted that in view of the judgment in the case of **State of Karnataka & Ors. Vs. Umadevi & Ors.** reported in **(2006) 4 SCC 1**, the learned Single Judge could not have upheld the finding of the Industrial Court that the respondents-complainants are entitled to regularisation of their services. It is submitted that at the relevant time, sanctioned posts were not available with the appellants and hence the directions of the learned Single Judge that the services of the complainant should be regularised would be incorrect.

On hearing the learned Assistant Government Pleader and on a perusal of the common orders of the learned Single Judge, dated 08.06.2010 and 15.12.2010 as also the judgments of the Industrial Court, it appears that there is no scope for interference with the judgments of the Industrial Court that are upheld by the learned Single Judge by the common orders, in exercise of the writ jurisdiction. The learned Single

Judge has rightly considered that the complainants had worked for more than 240 days in every calendar year for nearly seven years. The finding of fact recorded by the Industrial Court in that regard could not have been lightly interfered in exercise of the writ jurisdiction. Nothing was pointed out either before the learned Single Judge or this Court by the learned Assistant Government Pleader to show that the finding of fact recorded by the Industrial Court that the complainants had worked for 240 days in more than five calendar years was perverse or not based on the evidence on record. The learned Single Judge had referred to the judgment in the case of **Umadevi** (supra) and had observed that the workmen may not have a fundamental right to seek the regularisation of the service, however, the statutory right of an industrial worker to seek regularisation would not be lost in view of the judgment in the case of **Umadevi** (supra). The learned Single Judge held that since the complainants had proved that they had uninterruptedly worked for 240 days in several calendar years, they were entitled to permanency, in accordance with the provisions of law. By referring to the judgment of the Hon'ble Supreme Court in the case of **MSRTC** (supra), the learned Single Judge held that the provisions of the MRTU and PULP Act and the powers of the Industrial Court and the Labour Court were not denuded in view of the judgment in the case of **Umadevi** (supra). After referring to the law laid down by the Hon'ble Supreme Court, the learned Single Judge observed that since the complainants had duly proved that they had completed 240 days of service in seven calendar years and since there was sufficient evidence on record to show that the work for which the complainants were employed was perennial in nature, they were entitled to a declaration that the State Government and the other respondents had committed unfair labour practice in not regularising the services of the complainants. It was held by the learned Single Judge that the appointment of the complainants cannot be termed as illegal and at the most, they could have been said to

be irregular and such appointments could be regularised even as per the judgment in the case of **Umadevi** (supra), specially as held by the Supreme Court in para 53 thereof. We do not find any illegality in the common orders of the learned Single Judge so as to interfere with the same in these intra Court appeals. We do not find any merit in the submission made on behalf of the State Government that the complainants had not sought for a direction against the State Government for the regularisation of their service. On a reading of the prayer clause in the complaints, we find that by the first prayer made in the complaints, they had sought a direction against the State Government and others to regularise their services as they had uninterruptedly worked for more than 240 days in every calendar year. We also do not find any merit in the submission made on behalf of the State Government that the Industrial Court had wrongly recorded a finding of fact that the complainants had worked for more than 240 days during each calendar year. Nothing is pointed out on behalf of the State Government to show that the finding of fact recorded by the Industrial Court is either perverse or is based on no evidence. The submission made on behalf of the appellants that in the absence of sanctioned posts, the services of the complainants could not have been regularised is rejected. The learned Single Judge has rightly observed that such was not the case of the appellants in their written statement and there is no evidence in that regard. We find that in the circumstances of the case the learned Single Judge has rightly upheld the judgments of the Industrial Court and dismissed the writ petitions.

In the result, we dismiss the Letters Patent Appeals with no order as to costs.

In view of the disposal of the Letters Patent Appeals, all the pending Civil Applications are disposed of.

[SARANG V. KOTWAL, J.]

[SMT. VASANTI A. NAIK J.]